



## **2005 DRAFTING REQUEST**

### **Senate Amendment (SA-SSA(LRBs0511/2)-SB459)**

Received: **02/16/2006**

Received By: **mkunkel**

Wanted: **As time permits**

Identical to LRB:

For: **Robert Cowles (608) 266-0484**

By/Representing: **Todd Stuart**

This file may be shown to any legislator: **NO**

Drafter: **mkunkel**

May Contact: **Leg. Council**

Addl. Drafters:

Subject: **Public Util. - energy**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Cowles@legis.state.wi.us**

Carbon copy (CC:) to: **todd.stuart@legis.state.wi.us**  
**david.lovell@legis.state.wi.us**  
**john.stolzenberg@legis.state.wi.us**

---

#### **Pre Topic:**

No specific pre topic given

---

#### **Topic:**

Various task force changes

---

#### **Instructions:**

See Attached

---

#### **Drafting History:**

| <u>Vers.</u> | <u>Drafted</u>        | <u>Reviewed</u>        | <u>Typed</u>           | <u>Proofed</u> | <u>Submitted</u>       | <u>Jacketed</u>        | <u>Required</u> |
|--------------|-----------------------|------------------------|------------------------|----------------|------------------------|------------------------|-----------------|
| /?           |                       |                        |                        |                |                        |                        |                 |
| /1           | mkunkel<br>02/17/2006 | kfollett<br>02/17/2006 | rschluet<br>02/17/2006 | _____          | lnorthro<br>02/17/2006 | lnorthro<br>02/17/2006 |                 |
| /2           | mkunkel<br>02/20/2006 | jdyer<br>02/20/2006    | jfrantze<br>02/20/2006 | _____          | sbasford<br>02/20/2006 | sbasford<br>02/20/2006 |                 |

FE Sent For:

**<END>**

**2005 DRAFTING REQUEST**

**Senate Amendment (SA-SSA(LRBs0511/2)-SB459)**

Received: **02/16/2006**

Received By: **mkunkel**

Wanted: **As time permits**

Identical to LRB:

For: **Robert Cowles (608) 266-0484**

By/Representing: **Todd Stuart**

This file may be shown to any legislator: **NO**

Drafter: **mkunkel**

May Contact: **Leg. Council**

Addl. Drafters:

Subject: **Public Util. - energy**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Cowles@legis.state.wi.us**

Carbon copy (CC:) to: **todd.stuart@legis.state.wi.us**  
**david.lovell@legis.state.wi.us**  
**john.stolzenberg@legis.state.wi.us**

---

**Pre Topic:**

No specific pre topic given

---

**Topic:**

Various task force changes

---

**Instructions:**

See Attached

---

**Drafting History:**

| <u>Vers.</u> | <u>Drafted</u>        | <u>Reviewed</u>        | <u>Typed</u>           | <u>Proofed</u> | <u>Submitted</u>       | <u>Jacketed</u>        | <u>Required</u> |
|--------------|-----------------------|------------------------|------------------------|----------------|------------------------|------------------------|-----------------|
| /?           |                       |                        |                        |                |                        |                        |                 |
| /1           | mkunkel<br>02/17/2006 | kfollett<br>02/17/2006 | rschluet<br>02/17/2006 |                | lnorthro<br>02/17/2006 | lnorthro<br>02/17/2006 |                 |

FE Sent For:

*h 2/20 jcd*  
*9/20*  
**<END>**

**2005 DRAFTING REQUEST**

**Senate Amendment (SA-SSA(LRBs0511/2)-SB459)**

Received: 02/16/2006

Received By: **mkunkel**

Wanted: **As time permits**

Identical to LRB:

For: **Robert Cowles (608) 266-0484**

By/Representing: **Todd Stuart**

This file may be shown to any legislator: **NO**

Drafter: **mkunkel**

May Contact: **Leg. Council**

Addl. Drafters:

Subject: **Public Util. - energy**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Cowles@legis.state.wi.us**

Carbon copy (CC:) to: **todd.stuart@legis.state.wi.us**  
**david.lovell@legis.state.wi.us**  
**john.stolzenberg@legis.state.wi.us**

---

**Pre Topic:**

No specific pre topic given

---

**Topic:**

Various task force changes

---

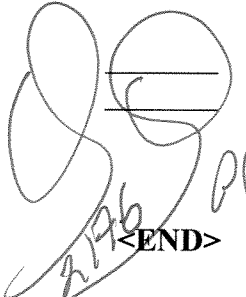
**Instructions:**

See Attached

---

**Drafting History:**

| <u>Vers.</u> | <u>Drafted</u> | <u>Reviewed</u> | <u>Typed</u> | <u>Proofed</u> | <u>Submitted</u> | <u>Jacketed</u> | <u>Required</u> |
|--------------|----------------|-----------------|--------------|----------------|------------------|-----------------|-----------------|
|--------------|----------------|-----------------|--------------|----------------|------------------|-----------------|-----------------|

|    |         |                  |   |  |  |  |  |
|----|---------|------------------|---|--|--|--|--|
| /? | mkunkel | 1/1/06<br>2/1/07 |  |  |  |  |  |
|----|---------|------------------|---|--|--|--|--|

FE Sent For:

**<END>**

## Kunkel, Mark

---

**From:** Lovell, David  
**Sent:** Monday, February 13, 2006 5:58 PM  
**To:** Kunkel, Mark  
**Cc:** Stuart, Todd; Stolzenberg, John  
**Subject:** Mea culpa -- I missed one

Mark,

I missed one instruction:

Regarding the 6th bullet point of the MEUW outline, on p. 31, delete the sentence on lines 11-13 and substitute: "The purpose of the programs under this paragraph shall be to help achieve environmentally sound and adequate energy supplies at reasonable cost. A program under this paragraph by a municipal electric utility shall be consistent with the commission's responsibilities under s. 196.025 (1) (a) and the utility's obligation under this chapter." (The language comes from p. 23, l. 10-11.)

My appologies-

David

---

David L. Lovell, Senior Analyst  
Wisconsin Legislative Council Staff  
608/266-1537

**Lovell, David**

**From:** RJ Pirlot [rjpirlot@wmc.org]

**Sent:** Wednesday, February 15, 2006 12:52 PM

**To:** Henderson, Patrick - Office of Governor Jim Doyle; Stuart, Todd; Lee Cullen; Earl Gustafson; ward.w@pg.com; Lovell, David

What to do once the large customer class is identified. Modifying what Dan Schooff has proposed and more along the lines, I think, of what we agreed to on Friday:

- a. The PSC starts a proceeding to determine what each member of the large customer class is paying, currently, in energy efficiency contributions. The PSC is to complete this proceeding no later than 4/1/07. Members of the large customer class would have their energy efficiency contributions frozen at this amount, without any adjustments for inflation and the like.
- b. The PSC then starts a proceeding to evaluate and, ultimately, implement a plan to allocate within the different rate classes an equitable distribution of energy efficiency contributions. The PSC is to complete this proceeding no later than 12/31/08.
- c. The PSC shall submit a report summarizing their "proposal" to the governor and chief clerk of each house of the legislature for distribution to the appropriate standing committees of the legislature containing the PSC's recommendations for allocating within difference classed of ratepayers the amounts that utilities will recover from ratepayers for the energy efficiency program.
- d. If by 7/1/09, the legislature has not implemented legislation based on the PSC's recommendations, the frozen energy efficiency contribution amounts will be annually adjusted the lesser of CPI or the annual change in utility operating revenues.

R.J. Pirlot

Director of Legislative Relations  
Wisconsin Manufacturers & Commerce  
Direct: 608-661-6935  
Mobile: 608-658-0817

*enables a customer that meets definition of large customer may petition PSC for freeze; PSC set freeze level by comparison to similar customers*

*providing equity between utilities, within customer classes, but not between customer classes*

*"Large customer" means a customer to which all of the following apply:*

- The customer owns or operates a facility that has an energy demand of at least 1,000 kw of electricity or 10,000 decatherms of nat. gas.*
- In any of the 12 preceding months, the customer received a bill for energy service of at least \$60,000, for electric and natural gas service for all facilities of the customer within the utility's service territory.*

02/15/2006

## Kunkel, Mark

---

**From:** Lovell, David  
**Sent:** Thursday, February 16, 2006 8:33 AM  
**To:** Kunkel, Mark  
**Cc:** Stuart, Todd  
**Subject:** FW: Large Natural gas customers

Mark,

So, the 10,000 decatherm threshold stays.

D

David L. Lovell, Senior Analyst  
Wisconsin Legislative Council Staff  
608/266-1537

-----Original Message-----

From: RJ Pirlot [mailto:rjpirlot@wmc.org]  
Sent: Wednesday, February 15, 2006 6:37 PM  
To: Schooff, Dan PSC; Stuart, Todd; Lovell, David; cullen@cwpb.com; Henderson, Patrick - Office of Governor Jim Doyle; gustafson@wipapercouncil.org; ward.w@pg.com; sheinzen@gklaw.com  
Subject: RE: Large Natural gas customers

WMC, the Paper Council and WIEG reviewed this threshold. We agree that this is a reasonable threshold.

-----Original Message-----

From: Schooff, Dan PSC [mailto:Dan.Schooff@psc.state.wi.us]  
Sent: Wed 2/15/2006 3:33 PM  
To: Stuart, Todd; Lovell, David; RJ Pirlot; cullen@cwpb.com; Henderson, Patrick - Office of Governor Jim Doyle; gustafson@wipapercouncil.org; ward.w@pg.com; sheinzen@gklaw.com  
Subject: FW: Large Natural gas customers

Everyone ok with this?

This would be another trigger, so you would need to trigger EITHER the therms OR kwh for a single site for a single month AND trigger the dollar amount for the utility service territory.

---

From: Lorence, John PSC  
Sent: Wed 2/15/2006 1:53 PM  
Cc: Lorence, John PSC  
Subject: Large Natural gas customers

To: Schooff, Dan PSC

You asked how much gas a "typical" "large" natural gas customer would use in a month. You mentioned that a typical large electric customer would use 1,000 kW a month.

I spoke to two gas rate analysts and they agreed that a "large" gas customer would typically use 100,000 therms, or 10,000 dekatherms a month.

**Kunkel, Mark**

---

**From:** Lovell, David  
**Sent:** Thursday, February 16, 2006 8:47 AM  
**To:** Stuart, Todd; Kunkel, Mark  
**Subject:** RE: Shared Savings

So, there are three options:

1. be silent on this subject and let the PSC interpret energy efficiency as including shared savings, at its discretion:

delete the definition of shared savings program.

2. explicitly add shared savings to the programs allowed under (2) (b) 1. and 2., but not to the definition of energy efficiency program:

retain the definition of shared savings;

change p. 24, l. 17 to refer to "energy efficiency or shared savings programs;"

change p. 24, l. 24 to refer to "energy efficiency, renewable resource, or shared savings programs."

3. add shared savings to the definition of energy efficiency program:

retain the definition of shared savings;

add to the definition of energy efficiency programs: "'Energy efficiency program' includes a shared savings program."

My sense was that Dan S. would prefer the first, though I suggested the second. What do we tell Mark to draft?

David

---

David L. Lovell, Senior Analyst  
Wisconsin Legislative Council Staff  
608/266-1537

---

**From:** Stuart, Todd  
**Sent:** Wednesday, February 15, 2006 8:48 PM  
**To:** Kunkel, Mark; Lovell, David  
**Subject:** FW: Shared Savings

Does this help?

---

**From:** Schooff, Dan PSC  
**Sent:** Wednesday, February 15, 2006 8:39 PM  
**To:** Stuart, Todd  
**Subject:** RE: Shared Savings

02/16/2006



I don't think we need the definition --

The way I was thinking of it --

You have the 1.2% floor -- for Alliant, the shared savings is above and beyond, unless they exercise their right to ask to have some or all of it count as part of the retained program -- likely outcome is that they apply for some of the program to be "retained" and some "above and beyond".

---

**From:** Stuart, Todd [mailto:Todd.Stuart@legis.state.wi.us]

**Sent:** Wed 2/15/2006 5:35 PM

**To:** Schooff, Dan PSC

**Subject:** Shared Savings

Dan:

David and I can't remember. Did we need to explicitly state if Shared Savings was in the retained programs?

Todd C. Stuart  
Office of State Senator Robert Cowles  
608.266.0484 Office  
608.267.0304 Fax  
todd.stuart@legis.state.wi.us

## Kunkel, Mark

---

**From:** Kunkel, Mark  
**Sent:** Thursday, February 16, 2006 11:56 AM  
**To:** Lovell, David  
**Cc:** Stuart, Todd  
**Subject:** RE: Purchasing requirements comparable to proposed s. 16.855 (10s)

David: Todd said I should include any authority.

---

**From:** Kunkel, Mark  
**Sent:** Thursday, February 16, 2006 11:42 AM  
**To:** Stuart, Todd; Lovell, David  
**Subject:** Purchasing requirements comparable to proposed s. 16.855 (10s)

To whom should this requirement apply?

It probably belongs in s. 16.75, which governs state purchasing contracts. In general, the requirements under s. 16.75 apply to DOA, designated purchasing agents under s. 16.71 (1), agencies making purchases under s. 16.74, and authorities.

I assume you want something similar, but note that the UW Hospitals and Clinics Authority is sometimes excluded from a requirement in s. 16.75.

Do you want to include authorities? Do you want to include all authorities except the UW Hospitals and Clinics Authority?

**Lovell, David**

**From:** Stuart, Todd  
**Sent:** Thursday, February 16, 2006 4:06 PM  
**To:** Lovell, David  
**Subject:** FW: SECTION 62-EPL MEETING

---

**From:** Haubrich.Joel [mailto:Joel.Haubrich@we-energies.com]  
**Sent:** Thursday, February 16, 2006 3:45 PM  
**To:** Scott Neitzel; Stuart, Todd; Schooff, Dan PSC  
**Subject:** SECTION 62-EPL MEETING

FYI...below is what I thought we agreed on...

---

SECTION 62. 196.025 (1) (b) to (d) of the statutes are created to read:

196.025 (1) (b) Energy conservation and efficiency. 1. In this paragraph "wholesale supplier" has the meaning given in s. 16.957 (1) (w).

2. In a proceeding in which an investor- owned electric public utility or a wholesale supplier is a party, the commission shall not ~~consider~~, order or otherwise impose energy conservation or efficiency requirements on the investor-owned electric public utility or the wholesale supplier pursuant to s. 1.12 (4) if the commission has fulfilled all of its duties and responsibilities under s. 196.374 and one of the following applies:

a. The investor- owned electric public utility has satisfied the requirements of s. 196.374 for <sup>to</sup> that year, as specified in s. 196.374 (8), or

b. The wholesale supplier's members are in the aggregate substantially in compliance with s. 196.374 (7). *prior to introduction of proposed*

(c) Renewable resources. 1. In this paragraph:

a. "Renewable resource" has the meaning given in s. 196.378 (1) (h).

b. "Wholesale supplier" has the meaning given in s. 16.957 (1) (w). *and*

2. In a proceeding in which an investor-owned electric public utility or a wholesale supplier is a party, the commission shall not ~~consider~~, order or otherwise impose any renewable resource requirements on the investor-owned electric public utility or wholesale supplier pursuant to s. 1.12 (4) if the commission has fulfilled all of its duties and responsibilities under s. 196.374 <sup>and</sup> if one of the following applies:

a. The investor- owned electric public utility is in compliance with the requirements of s. 196.378 (2) for that year, or

b. The wholesale supplier's members are in the aggregate substantially in compliance with s. 196.378 (2).

*or wholesale supplier*

(d) Transmission facilities. In a proceeding regarding a request by a public utility under s. 196.49, 196.491 (3), or 196.80, to acquire, construct, install, or operate an electric transmission facility or associated equipment, the commission shall not ~~evaluate~~, order or otherwise impose requirements on the public utility pursuant to s. 1.12 (4).

## Kunkel, Mark

---

**From:** Stuart, Todd  
**Sent:** Thursday, February 16, 2006 4:02 PM  
**To:** Kunkel, Mark  
**Subject:** RE: Sorry, one more...

Yes, it should be 16.858

One small change. Instead of shall include Cowles would like shall consider.

Thanks much-

David is probably on his way over with the final touches. Hope you have a beer this weekend-

---

**From:** Kunkel, Mark  
**Sent:** Thursday, February 16, 2006 2:59 PM  
**To:** Stuart, Todd  
**Subject:** RE: Sorry, one more...

Do you mean s. 16.858 (a provision under current law for energy conservation audits and construction projects), or is that a typo and you meant to refer to s. 16.855 (10s), which is created in the bill?

---

**From:** Stuart, Todd  
**Sent:** Thursday, February 16, 2006 11:57 AM  
**To:** Kunkel, Mark; Lovell, David  
**Subject:** Sorry, one more...

Amend Section 4, p. 6, after l. 2 as follows:

The department of administration shall include in its plan the methods of financing and implementing upgrades and installations set forth in sec. 16.858.

---

**From:** Kunkel, Mark  
**Sent:** Thursday, February 16, 2006 11:42 AM  
**To:** Stuart, Todd; Lovell, David  
**Subject:** Purchasing requirements comparable to proposed s. 16.855 (10s)

To whom should this requirement apply?

It probably belongs in s. 16.75, which governs state purchasing contracts. In general, the requirements under s. 16.75 apply to DOA, designated purchasing agents under s. 16.71 (1), agencies making purchases under s. 16.74, and authorities.

I assume you want something similar, but note that the UW Hospitals and Clinics Authority is sometimes excluded from a requirement in s. 16.75.

Do you want to include authorities? Do you want to include all authorities except the UW Hospitals and Clinics Authority?

## Kunkel, Mark

---

**From:** Lovell, David  
**Sent:** Friday, February 17, 2006 9:18 AM  
**To:** Kunkel, Mark  
**Subject:** RE: One question re: the amendment

Mark,

The dates in the two subdivisions should be January 1, 2004, rather than the effective date, to capture all changes to the utility's hydro facilities made after the base period (2001, 2002 & 2003). As drafted, it would not reflect any changes made between the base period and the effective date.

I hope you can get this change into /1.

Call if you have questions.

D

---

David L. Lovell, Senior Analyst  
Wisconsin Legislative Council Staff  
608/266-1537

---

**From:** Kunkel, Mark  
**Sent:** Friday, February 17, 2006 9:12 AM  
**To:** Lovell, David  
**Subject:** One question re: the amendment

David:

I put the amendment in editing and it will be done before the end of the day. However, I pointed out in the drafter's note that I am not sure whether the provision I drafted below captures the intent. So, as a head's up, please review the language below and, if you have changes, we can fix them (and any other errors that you catch) on the next version of the amendment, if a next version is necessary. (I prefer to handle it this way, because I really had to get something into editing this morning. If you get me a fix real soon, I might be able to pull it out of editing and address it right away.)

Here's what I drafted in the amendment:

196.378 (2) (b) 1m. The amount of electricity provided by hydroelectric power that an electric provider may count toward satisfying the requirements of par. (a) 2. shall be all electricity provided by hydroelectric power that the electric provider purchased in the reporting year plus all of the following:

- a. The average of the amounts of hydroelectric power generated by facilities owned or operated by the electric provider for 2001, 2002, and 2003, adjusted to reflect the permanent removal from service of any of those facilities and adjusted to reflect any capacity increases from improvements made to those facilities on or after the effective date of this subd. 1m. a. .... [revisor inserts date].
- b. The average of the amounts of hydroelectric power generated by facilities owned or operated by the electric provider that are initially placed in service on or after the effective date of this subd. 1m. b. .... [revisor inserts date].



State of Wisconsin  
2005 - 2006 LEGISLATURE

LRBa2374/1  
MDK:.....*gl*

*0-207E*

SENATE AMENDMENT ,

TO SENATE SUBSTITUTE AMENDMENT (LRBs0511/2),

TO 2005 SENATE BILL 459

*Today  
4:30 PM*

1 At the locations indicated, amend the substitute<sup>✓</sup> amendment as follows:

2 1. Page 2, line 14: after "construction" insert "and certain purchases".

3 2. Page 2, line 18: before that line insert:

4 "SECTION 1e. 16.75 (1) (a) 1. of the statutes, as affected by 2005 Wisconsin Act<sup>✓</sup>  
5 25, is amended to read:

6 16.75 (1) (a) 1. All orders awarded or contracts made by the department for all  
7 materials, supplies, equipment, and contractual services to be provided to any  
8 agency, except as otherwise provided in par. (c) and subs. (2), (2g), (2m), (3m), (3t),  
9 (6), (7), (8), (9), (10e)<sup>✓</sup>, and (10m) and ss. 16.73 (4) (a), 16.751, 16.754, 50.05 (7) (f),  
10 153.05 (2m) (a), 287.15 (7), and 301.265, shall be awarded to the lowest responsible  
11 bidder, taking into consideration life cycle cost estimates under sub. (1m), when  
12 appropriate, the location of the agency, the quantities of the articles to be supplied,

1 their conformity with the specifications, and the purposes for which they are  
2 required and the date of delivery.

**History:** 1975 c. 224; 1977 c. 418, 419; 1979 c. 34, 221, 314, 340, 355; 1979 c. 361 s. 112; 1981 c. 121 s. 20; 1983 a. 27 ss. 91, 93 to 99; 1983 a. 333 ss. 3g, 3r to 4b, 6; 1983 a. 368, 390; 1985 a. 29 ss. 122m to 124, 3200 (1); 1985 a. 180; 1987 a. 27, 119, 142, 147, 186, 399, 403; 1989 a. 31, 335, 345, 359; 1991 a. 39, 170; 1993 a. 16, 414; 1995 a. 27 ss. 368 to 382, 9116 (5); 1995 a. 225, 227, 244, 289, 432; 1997 a. 3; 1999 a. 9, 44, 197; 2001 a. 16, 38; 2003 a. 33; 2005 a. 22, 25, 74.

3 **SECTION 1m.** 16.75 (10e) of the statutes is created to read:

4 16.75 (10e) (a) In this subsection, “energy consuming equipment” means any  
5 equipment that is designed for heating, ventilation, air conditioning, water heating  
6 or cooling, lighting, refrigeration, or any other function, and that consumes energy.

7 (b) The department, any other designated purchasing agent under s. 16.71 (1),  
8 any agency making purchases under s. 16.74, and any authority may not purchase  
9 energy consuming equipment unless the specifications for the equipment meet the  
10 applicable standards for the equipment established under s. 16.855 (10s) (a). If there  
11 is no standard under s. 16.855 (10s) (a) applicable to the type of energy consuming  
12 equipment being purchased, or if the energy consuming equipment meeting that  
13 standard is not reasonably available, the department, purchasing agent, agency, or  
14 authority shall ensure that the energy consuming equipment that is purchased  
15 maximizes energy efficiency to the extent technically and economically feasible. The  
16 department, purchasing agent, agency, or authority shall not determine that energy  
17 consuming equipment that meets the applicable standard under s. 16.855 (10s) (a)  
18 either is not reasonably available on the basis of cost alone or is not cost-effective  
19 unless the difference in the cost of the purchase and installation of the equipment  
20 that meets the standard and the equipment that would otherwise be installed is  
21 greater than the difference in the cost of operating the equipment that meets the  
22 standard and the equipment that would otherwise be installed over the anticipated  
23 life of the equipment.”.

24 **3.** Page 2, line 18: delete “SECTION 1” and substitute “SECTION 1s”.



1           **4.** Page 6, line 2: after “revenues.” insert “The department of administration  
2 shall consider whether to include in its plan the means of financing allowed under  
3 s. 16.858.”.

4           **5.** Page 10, line 12: delete the material beginning with “To reflect” and ending  
5 with “\$750.” on line 14.

6           **6.** Page 11, line 8: delete the material beginning with “To reflect” and ending  
7 with “\$375.” on line 11.

8           **7.** Page 11, line 14: delete “annually.”.

9           **8.** Page 11, line 15: delete “an amount equal to”.

10          **9.** Page 11, line 16: delete “in that year”.

11          **10.** Page 19, line 2: delete “196.025 (1) (a)” and substitute “196.025 (1) (ar)”.

12          **11.** Page 19, line 4: delete “196.025 (1) (a)” and substitute “196.025 (1) (ar)”.

13          **12.** Page 19, line 8: after that line insert:

14          “**SECTION 61m.** 196.025 (1) (ag) of the statutes is created to read:

15          196.025 (1) (ag) *Definitions*. In this subsection:

16          1. “Renewable resource” has the meaning given in s. 196.374 (1) (j).

17          2. “Wholesale supplier” has the meaning given in s. 16.957 (1) (w).”.

18          **13.** Page 19, line 10: delete the material beginning with that line and ending  
19 with page 20, line 16, and substitute:

20          “196.025 (1) (b) *Energy conservation and efficiency*. 1. In a proceeding in which  
21 an investor-owned electric public utility is a party, the commission shall not order  
22 or otherwise impose energy conservation or efficiency requirements on the  
23 investor-owned electric public utility pursuant to s. 1.12 (4) if the commission has

1 fulfilled all of its duties under s. 196.374 and the investor-owned electric public  
2 utility has satisfied the requirements of s. 196.374 for the year prior to  
3 commencement of the proceeding, as specified in s. 196.374 (8).

4 2. In a proceeding in which a wholesale supplier is a party, the commission shall  
5 not order or otherwise impose energy conservation or efficiency requirements on the  
6 wholesale supplier pursuant to s. 1.12 (4) if the commission has fulfilled all of its  
7 duties under s. 196.374 and the wholesale supplier's members are in the aggregate  
8 substantially in compliance with s. 196.374 (7).

9 (c) *Renewable resources.* 1. In a proceeding in which an investor-owned electric  
10 public utility is a party, the commission shall not order or otherwise impose any  
11 renewable resource requirements on the investor-owned electric public utility  
12 pursuant to s. 1.12 (4) if the commission has fulfilled all of its duties under s. 196.374  
13 and the commission has informed the utility under s. 196.378 (2) (c) that, with  
14 respect to the most recent report submitted under s. 196.378 (2) (c), the utility is in  
15 compliance with the requirements of s. 196.378 (2) (a) 2.

16 2. In a proceeding in which a wholesale supplier is a party, the commission shall  
17 not order or otherwise impose any renewable resource requirements on the  
18 wholesale supplier pursuant to s. 1.12 (4) if the commission has fulfilled all of its  
19 duties under s. 196.374 and the wholesale supplier's members are in the aggregate  
20 substantially in compliance with s. 196.378 (2).

21 (d) *Transmission facilities.* In a proceeding regarding a request by a public  
22 utility or wholesale supplier to acquire, construct, install, or operate an electric  
23 transmission facility or associated equipment, the commission shall not order or  
24 otherwise impose requirements on the public utility or wholesale supplier pursuant  
25 to s. 1.12 (4).".

1           **14.** Page 21, line 20: after that line insert:

2           “(em) “Large energy customer” means a customer, of an energy utility, that  
3           owns or operates a facility that has an energy demand of at least 1,000 kilowatts of  
4           electricity or 10,000 decatherms of natural gas and that, in a month, was billed at  
5           least \$60,000 for electric service, natural gas service, or both, for all of the facilities  
6           of the customer within the energy utility’s service territory.”.

7           **15.** Page 23, line 1: delete lines 1 to 4.

8           **16.** Page 23, line 11: before “administer” insert “develop and”.

9           **17.** Page 23, line 17: delete “(a)” and substitute “(ar)”.

10          **18.** Page 24, line 6: after “customers.” insert “A local unit of government that  
11          receives assistance under this subd. 2. b. shall apply all costs savings realized from  
12          the assistance to reducing the property tax levy.”.

13          **19.** Page 24, line 10: after that line insert:

14          “d. Initiatives for research and development regarding the environmental  
15          impacts of the electric industry.”.

16          **20.** Page 25, line 5: delete “shall” and substitute “may”.

17          **21.** Page 25, line 7: delete “or” and substitute “at any time and shall request  
18          the modification or discontinuation of”.

19          **22.** Page 25, line 8: delete lines 8 to 14 and substitute:

20          “(c) *Large energy customer programs.* A customer of an energy utility that the  
21          commission has determined is a large energy customer under 2005 Wisconsin Act ....  
22          (this act), section 102 (8) (b) or sub. (5) (b) 2. may, with commission approval,  
23          administer and fund its own energy efficiency programs. A customer may request

commission approval at any time. A customer that funds a program under this paragraph may deduct the amount of the funding from the amount the energy utility may collect from the customer under sub. (5) (b) and the energy utility may credit the amount of the funding against the amount the energy utility is required to spend under sub. (3) (b) 2.”.

**23.** Page 28, line 11: delete lines 11 and 12.

**24.** Page 28, line 17: after “(b) 1.” insert “The cost of the audits shall be paid by the person or persons with whom the energy utilities contract for program administration under sub. (2) (a) 1.”.

**25.** Page 30, line 13: delete that line and substitute:

“(5) COST RECOVERY. (a) *Rate-making orders*. The commission shall ensure”.

**26.** Page 30, line 15: delete “under sub. (3) (b) 2.” and substitute “for programs under sub. (2) (a) 1.”.

**27.** Page 30, line 16: delete the material beginning with that line and ending with page 31, line 3, and substitute:

“(b) *Large energy customers*. 1. Except as provided in sub. (2) (c) and par. (bm) 2., if the commission has determined that a customer of an energy utility is a large energy customer under 2005 Wisconsin Act .... (this act), section 102 (8) (b), then, each month, the energy utility shall collect from the customer, for recovery of amounts under par. (a), the amount determined by the commission under 2005 Wisconsin Act .... (this act), section 102 (8) (c).

2. A customer of an energy utility that the commission has not determined is a large energy customer under 2005 Wisconsin Act .... (this act), section 102 (8) (b), may petition the commission for a determination that the customer is a large energy

1 customer. The commission shall determine that a petitioner is a large energy  
2 customer if the petitioner satisfies the definition of large energy customer for any  
3 month in the 12 months preceding the date of the petition. If the commission makes  
4 such a determination, the commission shall also determine the amount that the  
5 energy utility may collect from the customer each month for recovery of the amounts  
6 under par. (a). The commission shall determine an amount that ensures that the  
7 amount collected from the customer is similar to the amounts collected from other  
8 customers that have a similar level of energy costs as the customer. Except as  
9 provided in sub. (2) (c) and par. (bm) 2., each month, the energy utility shall collect  
10 from the customer, for recovery of amounts under par. (a), the amount determined  
11 by the commission under this subdivision.

12 (bm) *Allocation proposal.* 1. The commission shall commence a proceeding for  
13 for creating a proposal for allocating within different classes of customers an  
14 equitable distribution of the recovery of the amounts under par. (a) by all energy  
15 utilities. The purpose of the allocation is to ensure that customers of an energy utility  
16 within a particular class are treated equitably with respect to customers of other  
17 energy utilities within the same class. No later than December 31, 2008, the  
18 commission shall submit the proposal to the governor and chief clerk of each house  
19 of the legislature for distribution to the appropriate standing committees of the  
20 legislature under s. 13.172 (3).

21 2. If the legislature has not, before July 1, 2009, enacted legislation based on  
22 the proposal under subd. 1., the commission shall, beginning on July 1, 2009,  
23 annually increase the amount that an energy utility may recover from a large energy  
24 customer each month under par. (b) by a percentage that is the lesser of the following:

1           1. The percentage increase in the energy utility's operating revenues during the  
2 preceding year.

3           2. The percentage increase in the consumer price index for all urban  
4 consumers, U.S. city average, as determined by the U.S. department of labor, during  
5 the preceding year.”.

6           **28.** Page 31, line 4: after “(c)” insert “Accounting.”.

7           **29.** Page 31, line 7: delete “(d) The commission” and substitute “(d) *Equitable*  
8 *contributions*. Subject to pars. (b) and (bm) 2., the”.

9           **30.** Page 31, line 9: delete the material beginning with “The” and ending with  
10 “amounts,” on line 12.

11           **31.** Page 31, line 13: delete that line and substitute:

12           “(5m) BENEFIT AND GRANT OPPORTUNITIES. (a) The commission shall ensure that,  
13 on an annual basis, each customer class of”.

14           **32.** Page 31, line 16: delete “par. (a).” and substitute “sub. (5) (a). Biennially,  
15 the commission shall submit a report to the governor, and the chief clerk of each  
16 house of the legislature for distribution to the legislature under s. 13.172 (2), that  
17 summarizes the total amount recovered from each customer class and the total  
18 amount of grants made to, and benefits received by, each customer class.”.

19           **33.** Page 31, line 17: delete “(e)” and substitute “(b)”.

20           **34.** Page 31, line 19: delete “and (b) 1.” and substitute “and sub. (5) (b) 1.”.

21           **35.** Page 32, line 15: delete the material beginning with “To reflect” and  
22 ending with “\$375.” on line 17.

1           **36.** Page 32, line 20: delete the material beginning with “A commitment to”  
2 and ending with “sub. (3) (f) 4.” on line 22 and substitute:

3           “(The purpose of the programs under this paragraph shall be to help achieve  
4 environmentally sound and adequate energy supplies at reasonable cost. A program  
5 under this paragraph by a municipal electric utility shall be consistent with the  
6 commission’s responsibilities under s. 196.025 (1) (ar) and the utility’s obligation  
7 under this chapter.”.

8           **37.** Page 35, line 13: delete “for that” and substitute “in that”.

9           **38.** Page 35, line 14: delete “for that” and substitute “in that”.

10          **39.** Page 38, line 6: delete lines 6 to 12 and substitute:

11           “196.378 (2) (b) 1m. The amount of electricity provided by hydroelectric power  
12 that an electric provider may count toward satisfying the requirements of par. (a) 2.  
13 shall be all electricity provided by hydroelectric power that the electric provider  
14 purchased in the reporting year plus all of the following:

15           a. The average of the amounts of hydroelectric power generated by facilities  
16 owned or operated by the electric provider for 2001, 2002, and 2003, adjusted to  
17 reflect the permanent removal from service of any of those facilities and adjusted to  
18 reflect any capacity increases from improvements made to those facilities on or after  
19 the effective date of this subd. 1m. a. .... [revisor inserts date]. January 1, 2004

20           b. The average of the amounts of hydroelectric power generated by facilities  
21 owned or operated by the electric provider that are initially placed in service on or  
22 after the effective date of this subd. 1m. b. .... [revisor inserts date]. January 1, 2004

23          **40.** Page 46, line 14: delete lines 14 to 21.

24          **41.** Page 47, line 1: delete lines 1 to 9 and substitute:

1 “(b) No later than July 1, 2008, the public service commission shall submit a  
2 report to the governor and chief clerk of each house of the legislature for distribution  
3 to the legislature under section 13.172 (2) of the statutes that consists of the  
4 commission’s recommendations on whether any component of an energy utility’s  
5 revenue requirements should be itemized on ratepayer bills.”.

6 **42.** Page 47, line 9: after that line insert:

7 “(8) LARGE ENERGY CUSTOMERS.

8 (a) In this subsection:

9 1. “Commission” means the public service commission.

10 2. “Energy utility” has the meaning given in section 196.374 (1) (e), as created  
11 by this act.

12 3. “Large energy customer” has the meaning given in section 196.374 (1) (em),  
13 as created by this act.

14 (b) No later than July 1, 2007, the commission shall determine the customers  
15 of energy utilities that, for any month during the 12 months preceding the date of the  
16 commission’s determination, satisfy the definition of large energy customer.

17 (c) For each customer of an energy utility that the commission determines is  
18 a large energy customer under paragraph (b), the commission shall, no later than  
19 July 1, 2007, determine the monthly average that the customer paid the energy  
20 utility in 2005 for recovery under s. 196.374 (3), 2003 stats.”.

21 **43.** Page 47, line 21: delete “(6), and (7)” and substitute “(7), and (8)”.

22 (END)

D-Note



**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRBa2374/1dn

MDK: *lgf*

*Date*

Sen. Cowles:

Please note the following about this amendment:

*two*  
1. I restructured the changes to s. 196.025 (1) (b) and (c). Also, for s. 196.025 (1) (b), (c), and (d), I made changes in response to *2* sets of instructions that I received. Please review to make sure that I captured your intent.

2. I restructured s. 196.378 (2) (b) 1m., but I am not sure whether I captured your intent. Please review.

*2* 3. New section 102 (8) (b) of the substitute amendment requires the PSC to determine whether a customer is "large energy customer" based on any month in the 12 months preceding the PSC's determination. However, new section 102 (8) (c) requires a large energy customer to pay its energy utility an amount based on a monthly average for 2005. Is this okay, or should the time periods be made consistent? For example, you could require the PSC to determine whether a customer is a "large energy customer" based on any month in 2005. (However, the determination will probably be made in early 2007.)

Mark D. Kunkel  
Senior Legislative Attorney  
Phone: (608) 266-0131  
E-mail: mark.kunkel@legis.state.wi.us

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRBa2374/1dn  
MDK:kjf:rs

February 17, 2006

Sen. Cowles:

Please note the following about this amendment:

1. I restructured the changes to s. 196.025 (1) (b) and (c). Also, for s. 196.025 (1) (b), (c), and (d), I made changes in response to two sets of instructions that I received. Please review to make sure that I captured your intent.
2. New SECTION 102 (8) (b) of the substitute amendment requires the PSC to determine whether a customer is a "large energy customer" based on any month in the 12 months preceding the PSC's determination. However, new SECTION 102 (8) (c) requires a large energy customer to pay its energy utility on an amount based on a monthly average for 2005. Is this okay, or should the time periods be made consistent? For example, you could require the PSC to determine whether a customer is a "large energy customer" based on any month in 2005. (However, the determination will probably be made in early 2007.)

Mark D. Kunkel  
Senior Legislative Attorney  
Phone: (608) 266-0131  
E-mail: mark.kunkel@legis.state.wi.us